



City of La Porte Zoning Board of Adjustment Meeting Agenda

Notice is hereby given of a **Regular Meeting** of the La Porte Zoning Board of Adjustment to be held **February 27, 2014**, at **6:00 p.m.** in the Council Chambers of City Hall, 604 West Fairmont Parkway, La Porte, Texas, according to the items of business listed below:

1. Call to order
2. Elect a Vice-Chairman
3. Consider approval of November 12, 2013, meeting minutes.
4. A public hearing will be held to consider Variance Request #14-93000001 for the property located at 327 Dwire, further described as Lots 1, 2, 17, & 18, Block 5, Bay Oaks Subdivision, W. P. Harris Survey, Abstract No. 30, La Porte, Harris County, Texas. The applicants, Dennis and Rebecca Dorsett, seek a variance to allow a fence to remain in the front yard setback contrary to the provisions of Section 106-791 of the Code of Ordinances. This variance is being sought under the terms of Section 106-192 of the City of La Porte Code of Ordinances.
 - A. Staff Presentation
 - B. Applicant Presentation
 - C. Public Comments
 - D. Question and Answer
5. Administrative Reports
6. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
7. Adjourn

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by Council.

In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.

CERTIFICATION

I certify that a copy of the February 27, 2014, agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____ 2014.

Title: _____

Out of consideration for all attendees of the meeting, please turn off all cell phones and pagers, or place on inaudible signal. Thank you for your consideration.

Minutes

**Zoning Board of Adjustment
Minutes of November 12, 2013**

Board Members Present: Rod Rothermel, Charles Schoppe, T.J. Walker, and Nettie Warren (Alt 1)

Board Members Absent: Chester Pool, Sherman Moore, and Lawrence McNeal (Alt 2)

City Staff Present: City Planner Masood Malik, Assistant City Attorney Clark Askins, and Office Coordinator Peggy Lee

1. Call to Order.

Vice-Chairman Rod Rothermel called the meeting to order at 6:00 p.m.

2. Elect a Chairman

Motion by Charles Schoppe to nominate Rod Rothermel as Chairman. Second by T.J. Walker.
Motion carried.

Ayes: Charles Schoppe, T.J. Walker, Rod Rothermel, and Nettie Warren
Nays: None

3. Consider approval of the September 26, 2013, meeting minutes.

With no objection presented, the September 26, 2013, minutes were approved as presented.

4. A public hearing will be held to consider Variance Request #13-93000006 for the property located at 2322 Eagle Lane, further described as Lot 53, Block 2, Lakes at Fairmont Greens, Section 1, W.P. Harris Survey, Abstract 30, La Porte, Harris County, Texas. The applicant seeks a variance to allow 3.8 feet encroachment into the rear 15-foot building setback line, which is prohibited by the Code of Ordinances. The variance is being sought under the terms of Section 106-192 (b) (2) of the City's Code of Ordinances.

A. Staff Presentation

City Planner Masood Malik presented the staff report for Variance Request #13-93000006. The applicant, Lori Evans on behalf of D.R. Horton, is requesting a waiver of 3.8' from the City's rear building setback requirement for Lot 53, Block 2, Lakes of Fairmont Greens Subdivision, Section 1.

Public hearing notices were mailed to three property owners located within 200' of the subject tract. The City did not receive any response from the mail-out.

B. Applicant Presentation

Roger and Melissa Martin, 10119 Shell Rock Rd., La Porte, were sworn in by Chairman Rothermel. Mr. and Mrs. Martin, while raising their family, have lived in La Porte for 33 years and have plans to remain here as Mr. Martin is now retired. The Martins were unaware the new home they purchased was a bit larger than would be allowed on the lot and are now requesting favorable consideration of a variance to remedy the problem.

C. Public Comments

Mark Follis, 831 S. 7th St., was sworn in by Chairman Rothermel. Mr. Follis spoke in favor of granting the variance, given the unique situation of the property. A detention pond exists beyond the rear of the subject property; therefore there are no homes that would be affected. Mr. Follis stated that setback requirements are being looked at by the Zoning Ordinance Review Subcommittee.

D. Question and Answer

There were none.

Motion by T.J. Walker to approve Variance Request #13-93000006, allowing a 3.8 foot encroachment into the rear 15' building setback line for the property located at 2322 Eagle Lane. Second by Charles Schoppe. Motion failed.

Ayes: Charles Schoppe, T.J. Walker, and Rod Rothermel
Nays: Nettie Warren

Motion by Nettie Warren to reconsider the prior motion. Second by Chairman Rothermel. Motion carried.

Ayes: Nettie Warren, Charles Schoppe, T.J. Walker, and Rod Rothermel
Nays:

Motion by Charles Schoppe to approve Variance Request #13-93000006, allowing a 3.8 foot encroachment into the rear 15' building setback line for the property located at 2322 Eagle Lane. Second by T.J. Walker. Motion carried.

Ayes: Charles Schoppe, T.J. Walker, Nettie Warren, and Rod Rothermel
Nays:

Assistant City Attorney Clark Askins read from Section 106-196 of the Code of Ordinances: *Appeals from the Board of Adjustment.*

5. Administrative Reports

Mr. Malik reported the Planning & Zoning Chapter 106 Review Subcommittee has completed converting the commercial and industrial use table from SIC to NAICS.

6. Board comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy.

There were no comments from the Board.

7. Adjourn

Chairman Rothermel adjourned the meeting at 6:19 p.m.

Respectfully submitted,

Peggy Lee
Secretary, Zoning Board of Adjustment

Passed and Approved on _____, 2014.

Rod Rothermel
Vice-Chairman, Zoning Board of Adjustment

Variance Request #14-93000001 for 327 Dwire

- 1. Staff Report**
- 2. Application (with supporting documentation/photos provided by applicant)**
- 3. Approved Fence Placement Plan**
- 4. Area Map**

Staff Report

February 27, 2013

Variance Request # 14-93000001

Requested by: Dennis and Rebecca Dorsett

Requested for: A Variance to the La Porte Code of Ordinances, Section 106-791 for a perimeter fence constructed within the front yard setback.

Location: Lots 1, 2, 17, 18, Block 5; Bay Oaks Subdivision, W. P. Harris Survey, Abstract 30, La Porte, Harris County, Texas.

Zoning: Low Density Single Family Residential (R1)

Background: Applicant is requesting a variance to allow a newly constructed fence within the front yard setback to remain in place. Total developed site area of the subject tract is approximately 20,000 square feet consisting of four lots; two of which front Dwire and two front Bay Oaks Drive. There is an unimproved right of way immediately to the west of the subject properties. The property is zoned low density residential and is appropriately being used as residential with a single family unit placed on the northeast lot (lot 2). The City's Code of Ordinances prohibit a fence being erected within the required front yard setback of any residential property.

Last year, the City approved a permit to construct a fence. The conditions imposed on the permit required the fence to be built at the front setback line which is 25 feet from the right of way/property line, however the contractor placed the fence at a location approximately 25 feet from the edge of the road. The resulting fence location is within the applicants property, a few feet back from the front property line.

This variance request is for a waiver of the standard front yard setback requirement in order to allow a fence constructed forward of the front property lines of both Dwire and Bay Oaks Drives. The City's Code of Ordinances, Section 106-791, prohibits a fence being erected within the required 25' front yard setback in residential zoning districts.

Legal Requirements: Section 106-192(b)(1), of the Code of Ordinances, defines a *variance as a deviation from the literal provisions of the chapter, which is granted by the Board when strict conformity to the chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.*

Section 106-1 defines fence as "...a manmade structural barrier erected on or around a piece of property or any portion thereof."

Except as otherwise prohibited, the Board is empowered to authorize a variance from a requirement when the Board finds that all of the following conditions have been met:

- ❖ That the granting of the variance will not be contrary to the best public interest.
- ❖ That literal enforcement of the chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. “Unnecessary hardship” shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner’s own actions; and
- ❖ That by granting the variance, the spirit of the chapter will be observed.

Analysis:

Staff analyzed the surrounding area and based upon site inspections, the following considerations are noted:

- The subdivision in question was constructed many years prior to annexation into the City of La Porte in 1989. Because Harris County did not require front yard fence setbacks, several homes in the subdivision are constructed with fences on or about the front property lines.
- The City is not aware of any restrictive covenants applicable to the subdivision that would otherwise require fence setbacks.
- The department has verified the claim of the applicant that numerous homes within the subdivision have existing fences forward of the front yard setback lines, including adjacent units. It appears to be a common form of development circumstance within the subdivision.

In determining if granting the applicant’s request would be contrary to the public interest, Staff recognizes the family has issues related to previous criminal activity occurring in the vicinity of the property. It is also acknowledged that such activity when analyzed in connection with a special needs individual, results in a unique need for additional security.

In viewing the specific grounds for granting a variance, however, staff points out that the condition, as it exists, “...is the result of the applicant or property owner’s own actions...” contrary to the provisions of Section 106-192. However, staff finds no grounds to justify “...unnecessary hardship because of exceptional narrowness, shallowness, shape topography, or other extraordinary or exceptional physical situation unique to the property in

question.” Security of the property and safe operation however, may be considered in this regard.

Conclusion/Recommendation:

The Zoning Board of Adjustment’s final consideration is whether granting this request observes the spirit of the ordinance. Based on the facts noted in this report, the staff recommendation is to allow the fence in its current location due to the mitigating factors above described including the common and historic practice within this subdivision to build fences forward of the building line, for factors related to the criminal activity that has occurred in the vicinity of this property, and for cause/need specifically applicable to the family requesting the variance.

Appeals:

As per Section 106-196 of the Code of Ordinances of the City of La Porte: Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code Section 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Board of Adjustment.

City of La Porte
604 W. Fairmont Pkwy.
La Porte, TX 77571

Planning & Development Department
VARIANCE APPLICATION

Phone: 281.470.5058
Fax: 281.470.5005
www.laportetx.gov

1. PROPERTY OWNER CONTACT INFORMATION:

OWNER NAME: Dennis + Rebecca Dorsett PHONE 1: 8-832-707-5252
PHONE 2: D-832-707-5258 FAX #: _____
E-MAIL: bdorsett67@gmail.com
MAILING ADDRESS: 327 Dwire Dr La Porte TX 77571

2. *AGENT REPRESENTING PROPERTY OWNER (If Applicable):

AGENT / CONTRACTOR COMPANY: _____
PHONE 1: _____ PHONE 2: _____
E-MAIL: _____ FAX #: _____
MAILING ADDRESS: _____
CONTACT PERSON'S NAME: _____ PHONE: _____

3. PROPERTY DESCRIPTION:

HCAD PARCEL NO(s) 13-digit Tax ID(s): 063-021-005-0001 + 0002, 0017 + 0018
PROPERTY ADDRESS (If existing): 327 Dwire Dr La Porte TX 77571
PROPERTY LEGAL DESCRIPTION: Lots 1, 2, 17 + 18, in block 5, in Bay Oaks, a subdivision in Harris County Texas, according to the map or plat thereof recorded in Vol 10, Page 9, of the Map Records of Harris County, Texas

4. BASIS FOR VARIANCE REQUEST:

A "Variance" constitutes a deviation from the literal provisions of the Zoning Ordinance and is granted by the board when strict conformity to the Zoning Ordinance would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.

Check applicable box for Variance request based on exceptional:

- ☐ Narrowness
☐ Shallowness
☐ Shape
☐ Topography
☒ Other extraordinary or exceptional physical situation unique to property: fence is 25' from road - please see attached for more explanation.

5. APPLICATION CHECKLIST & SUPPORTING DOCUMENTATION (check boxes indicating items submitted with your application):

- ☒ COMPLETE ITEMS 1-5 OF APPLICATION ☒ SUBMIT \$150 APPLICATION FEE (Non-Refundable)
☒ ATTACH SEPARATE SHEET WITH INFORMATION HELPFUL IN CONSIDERING YOUR REQUEST:
(Specify the facts involved, relief desired, and the grounds for the request.)
☒ WRITTEN AUTHORIZATION FROM PROPERTY OWNER TO ACT ON HIS/HER BEHALF (If applicable)

NOTE: It is the responsibility of the applicant to prove that his/her request meets conditions established for a Special Exception from the ZBOA.

PRINTED NAME: Rebecca Dorsett SIGNATURE: [Signature] DATE SUBMITTED: 2/4/14
Rebecca (Applicant) Dorsett (Applicant)

(STAFF USE ONLY):

APPLICATION NO: 14-93000001

DATE APPLICATION REC'D.: 2-4-14 APPLICATION REC'D BY: P. Lee

☐ SITE PLAN REC'D ☒ \$150 APPLICATION FEE REC'D ☒ APPLICANT'S SUPPLEMENTAL INFO REC'D ☒ OWNER AUTHORIZATION

ZBOA MEETING DATE: 2-27-14 VARIANCE GRANTED? ☐ YES ☐ NO

Dorsett Variance Request 2014

On 10/2/13 I submitted the paperwork to have a fence permit approved.

We spent \$8000.00 on the cedar fence we are asking that you approve the variance that we are requesting as we do not have an additional \$2000.00 to have it moved. Below are the reasons that we wish to have you approve the variance that we are filing:

The money that we do have saved, which isn't enough to have the fence moved, is to be used to purchase more physical therapy items for our son Jacob who is a special needs child. He was born with partial agenesis of the corpus callosum. The short definition of this disability is that the grey matter between the right and left side of the brain was not fully formed when in the womb and he has issues with the brain firing completely and sending the signals that normal children get. Jacob is a very trusting child due to this disability. He also needs lots of work with physical therapy as well as occupational therapy to get his muscles up to the age of 9 – at this time he has a hard time lifting a gallon of milk and carrying it from the car much less picking up a 10 lb. weight. We currently have items in the back yard that he works with to help better his agility, muscles and coordination. We have also acquired a puppy that is being trained as a type of service dog for Jacob. The two are inseparable and he is teaching Jacob responsibility and how to care for another besides himself.

There is a young man, probably in his late 20s, who frequently walks up and down the streets of our neighborhood talking to himself and he tends to loiter in front of our house as well as the daycare across the street. This young man has been arrested a couple times in front of our house and removed a couple of times by the police without being arrested. We as parents worry about the welfare of our child as well as the children at the daycare. Before the fence was placed he would walk through our yard to get to the daycare area quicker. The fence acts as a safety to these children as well as my own. It seems that if he doesn't see the kids / daycare he doesn't make it over to Dwire quite as often as he used to.

I believe that with all the other fences in the area (pictures have been attached) we are actually set back further than most that are sitting on the property line, some even have fences in front of the house where ours is not in front of the house at all it is to the side.

I thank you for your time and consideration of our request.

Sincerely,



Rebecca Dorsett
327 Dwire Dr.
La Porte, TX 77571

Becky Dorsett

From: Donna.Beaver@shell.com
Sent: Tuesday, February 04, 2014 12:50 PM
To: Becky Dorsett
Subject: Fence

Becky,
As the mortgagee and lien holder of the property at 327 Dwire Drive (and associated lots), LaPorte, Texas 77571, I fully approve of the recently installed fence. The fence has enhanced the appearance of the property, as well as being a very noticeable contribution to the neighborhood. I'm sure that the value added to the property is much more than monetary for you and your family. I appreciate the hard work that you and your family have done to improve the home and property.

Donna Beaver
Scheduler - SDPC 4000C
Shell Oil Products Company, LLC
5900 Hwy 225, Deer Park, TX 77536

Tel: 713.246.7312
Email: Donna.Beaver@shell.com
Internet: <http://www.shelldeerpark.com>

02-03-14

To whom it may

The fence that is up across the street on property is not a problem for us here a Beacon School. We think it looks nice.

Thank you

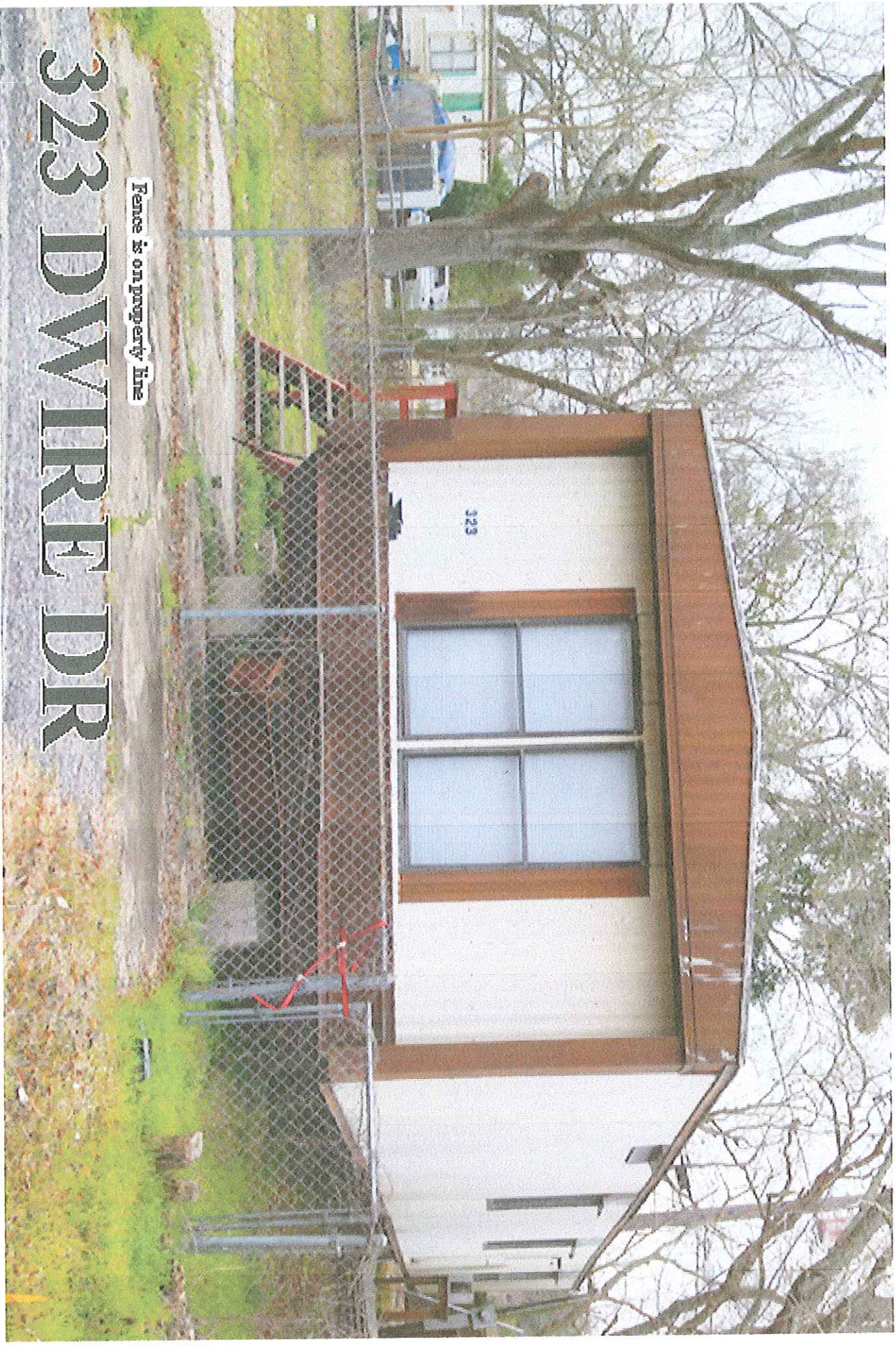
Angela
Thomson

The following is an excerpt from the City of La Porte Code of Ordinances:

SEC. 106-192. VARIANCE.

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
 - (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
 - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
 - a. That the granting of the variance will not be contrary to the public interest;
 - b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and
 - c. That by granting the variance, the spirit of this chapter will be observed.
 - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.
- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in [section 106-194](#). Upon the hearing any party may appear in person or by agent or by attorney.

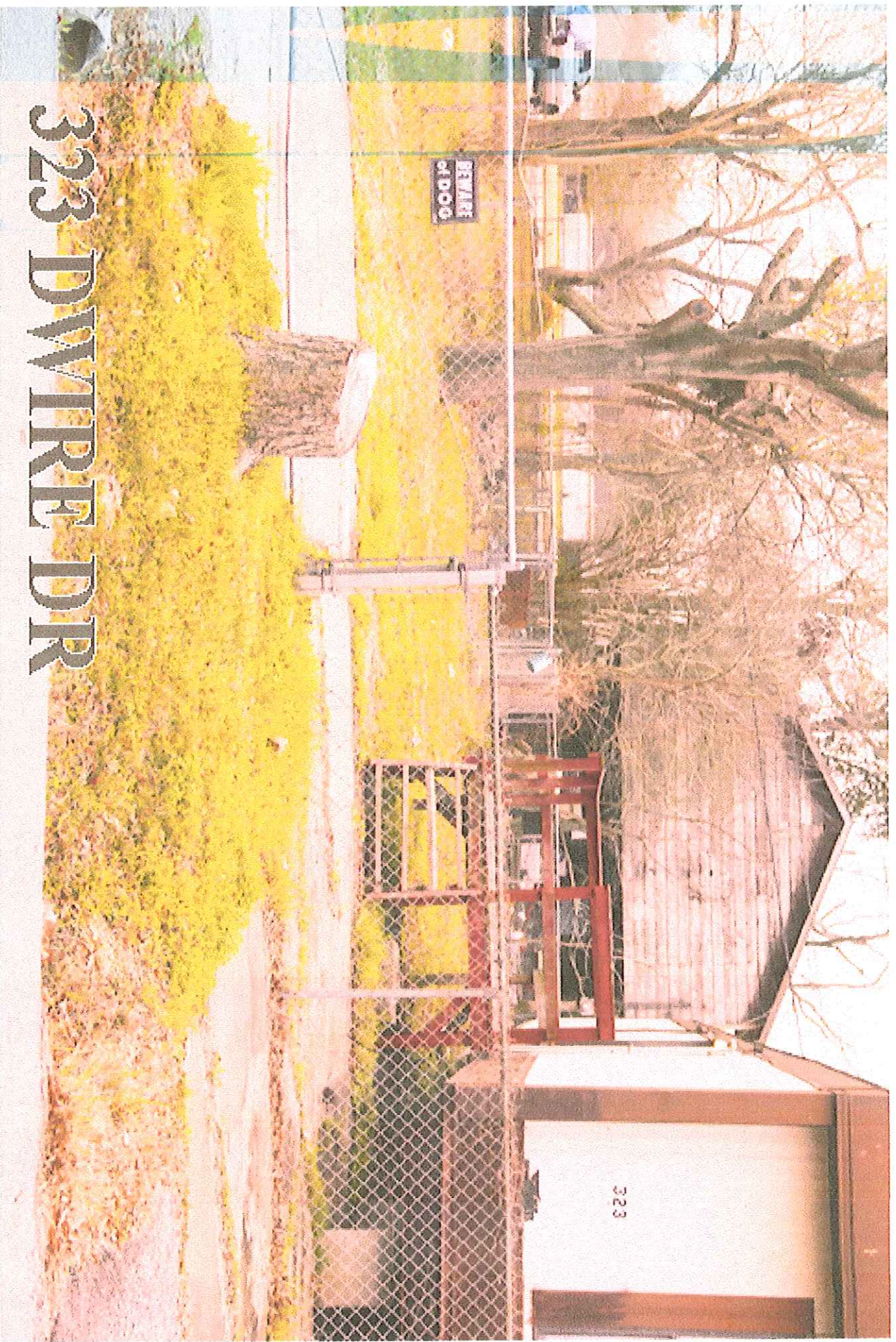
Provided by Applicant



Fence is on property line

323 DWIRE DR

next door



323 DWIRRE DR

next door



402 DWIRE DR

Fence is on property line

across the street



421 DWYRE DR

Fence is on property line

2 doors down

our neighborhood



Our neighborhood

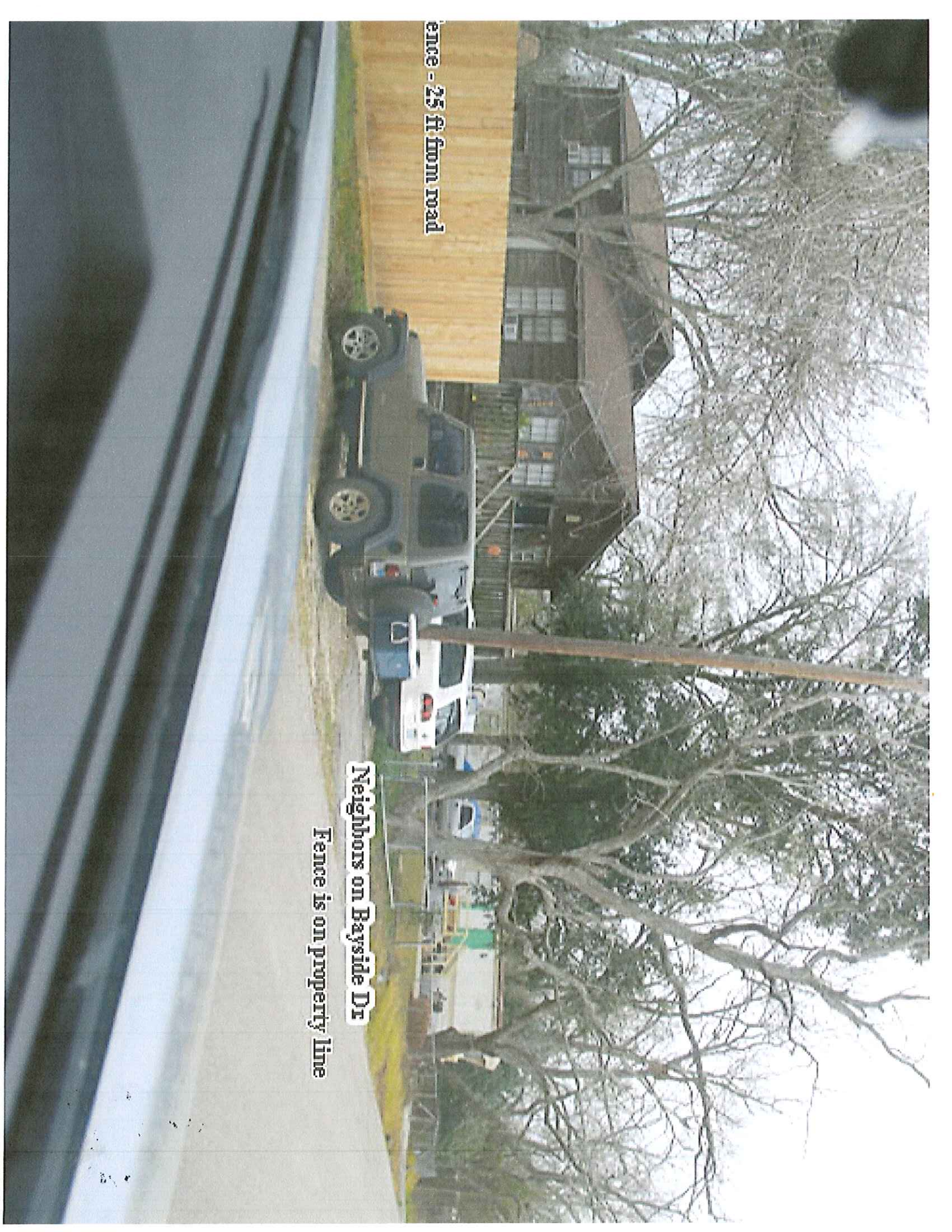




Our fence on Bayside Dr. - 25 ft from road

not on
property
line

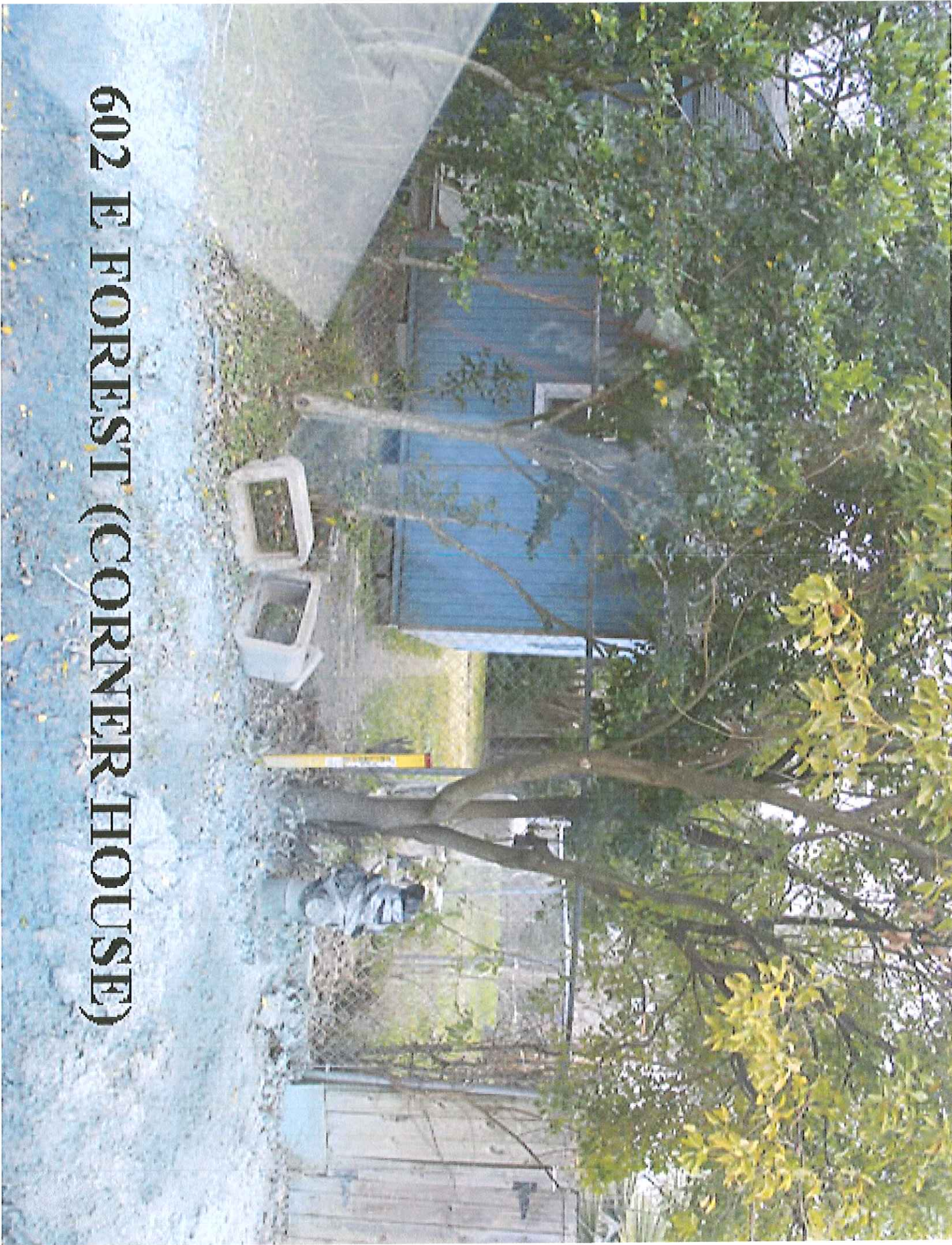




ence - 25 ft from road

Neighbors on Bayside Dr

Fence is on property line



602 E FOREST (CORNER HOUSE)



BAY OAKS

BAY OAKS

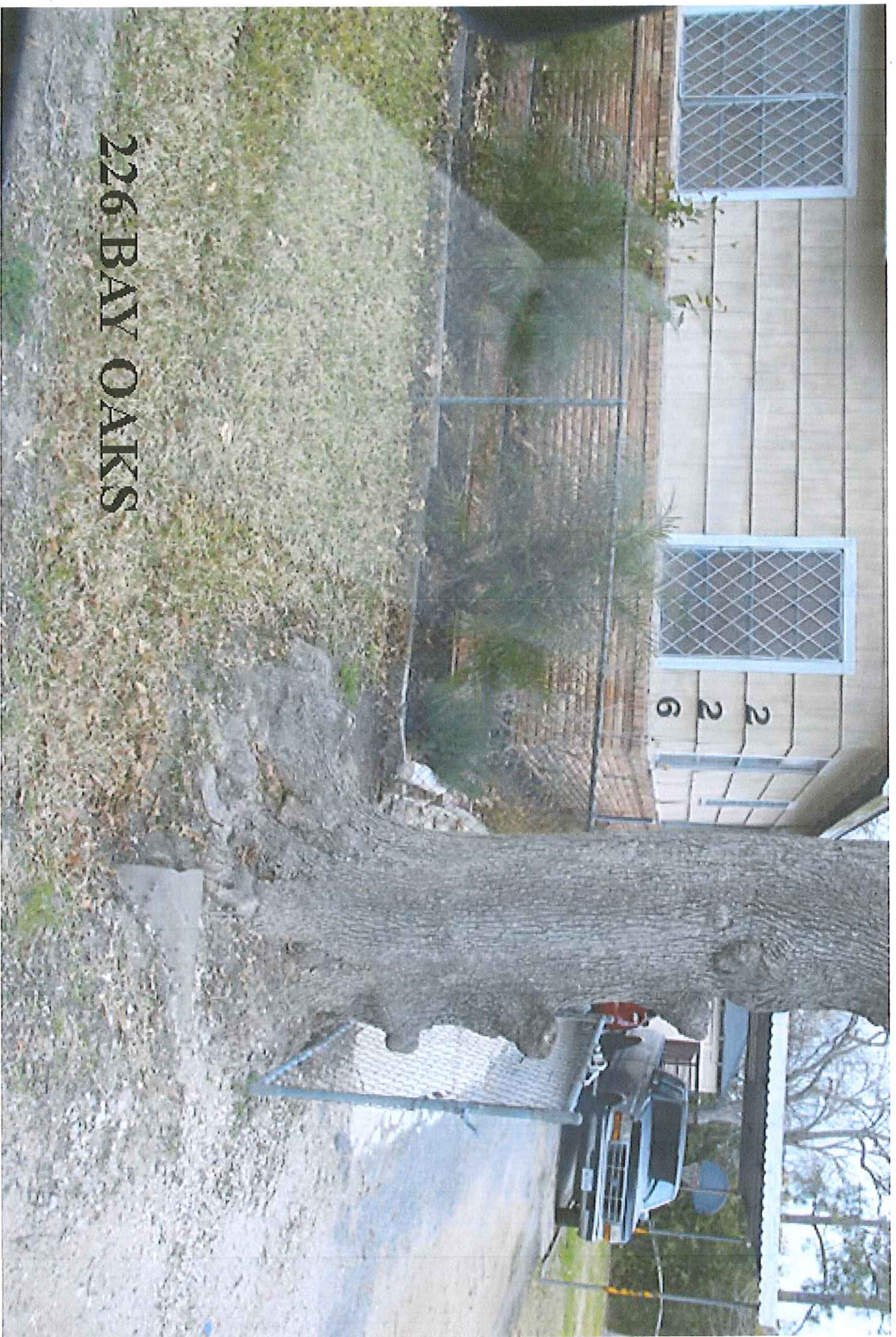




130 BAY OAKS



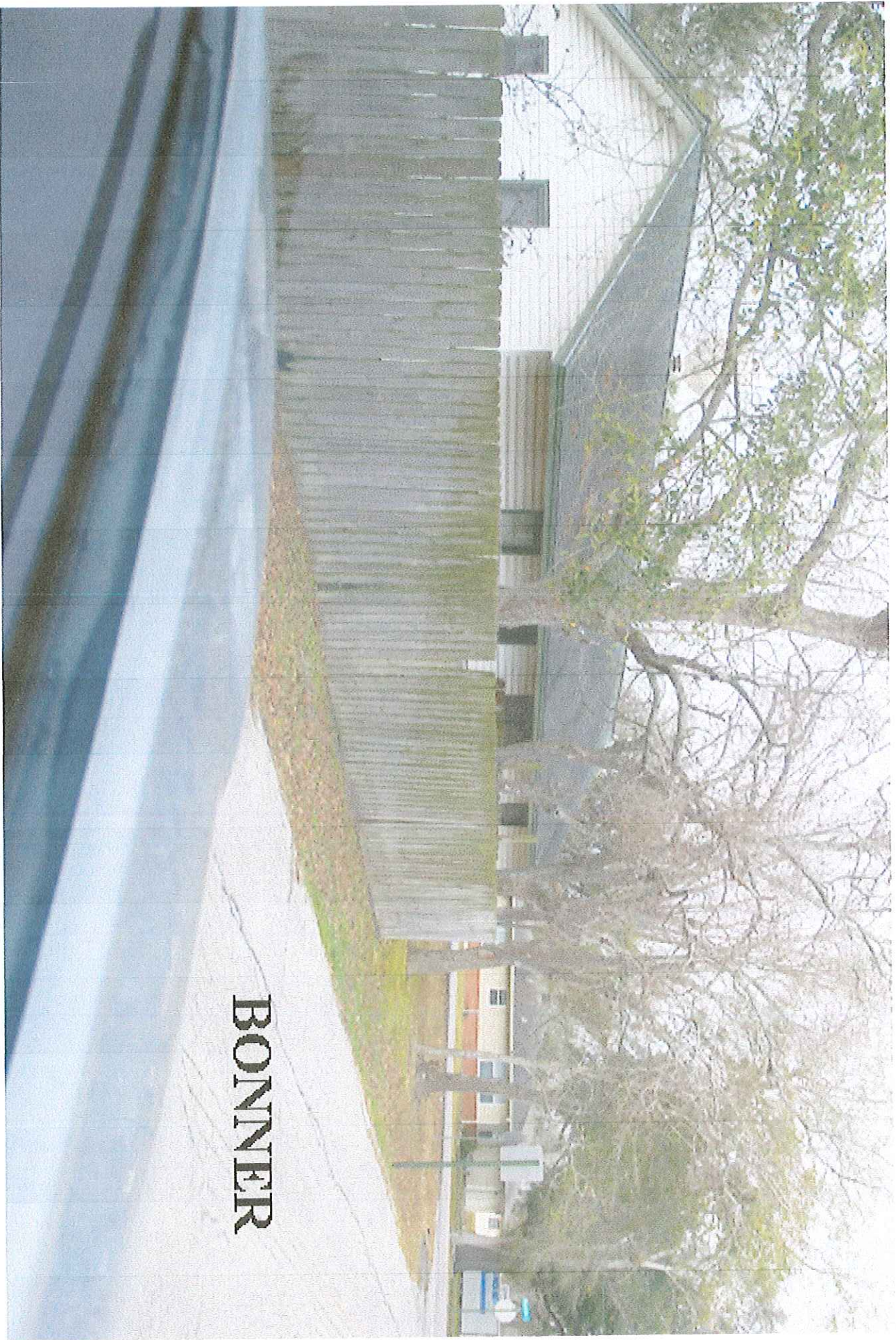
NEXT DOOR TO 226 BAY OAKS



226 BAY OAKS

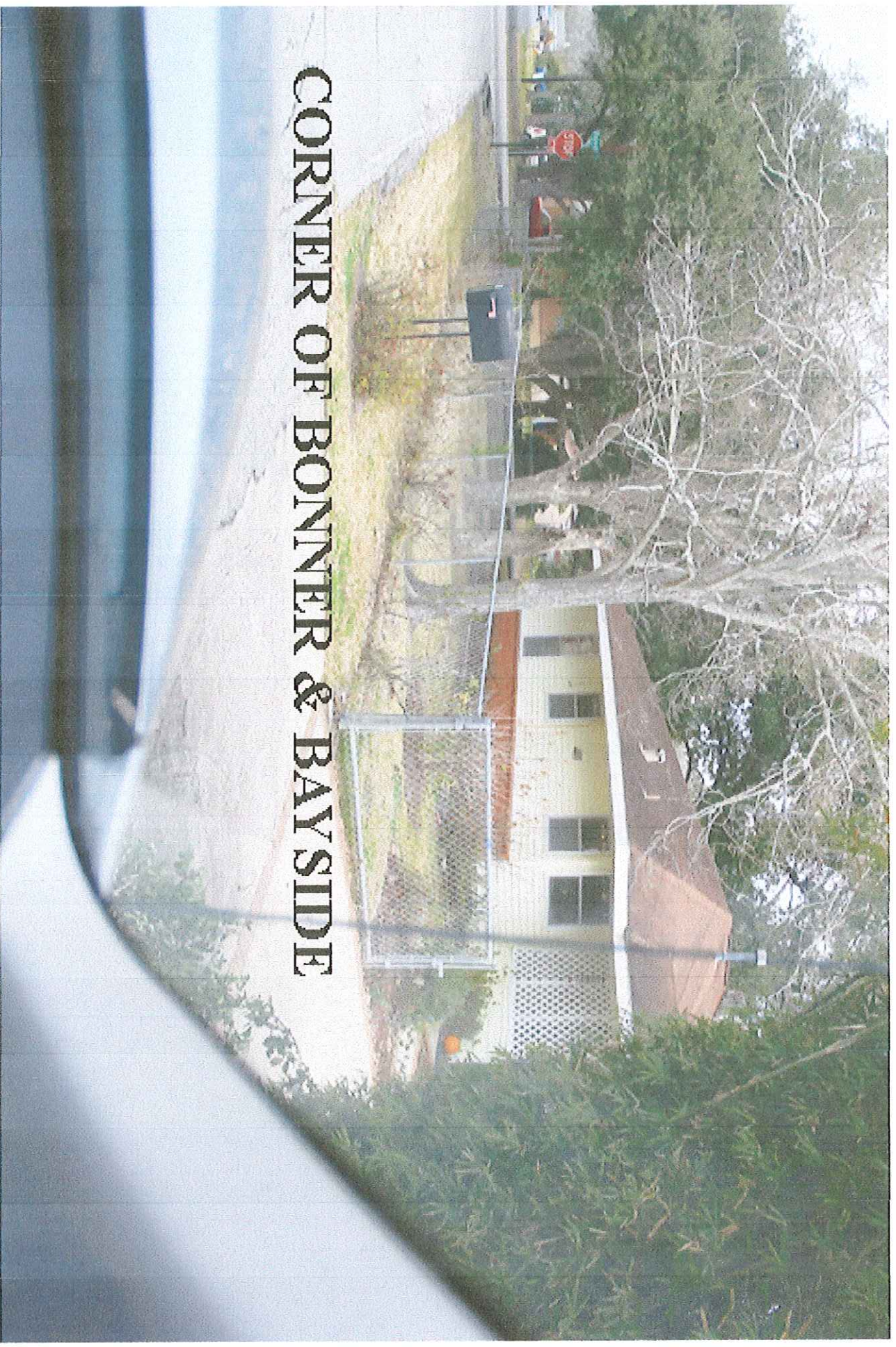
607 MEADOWLAWN

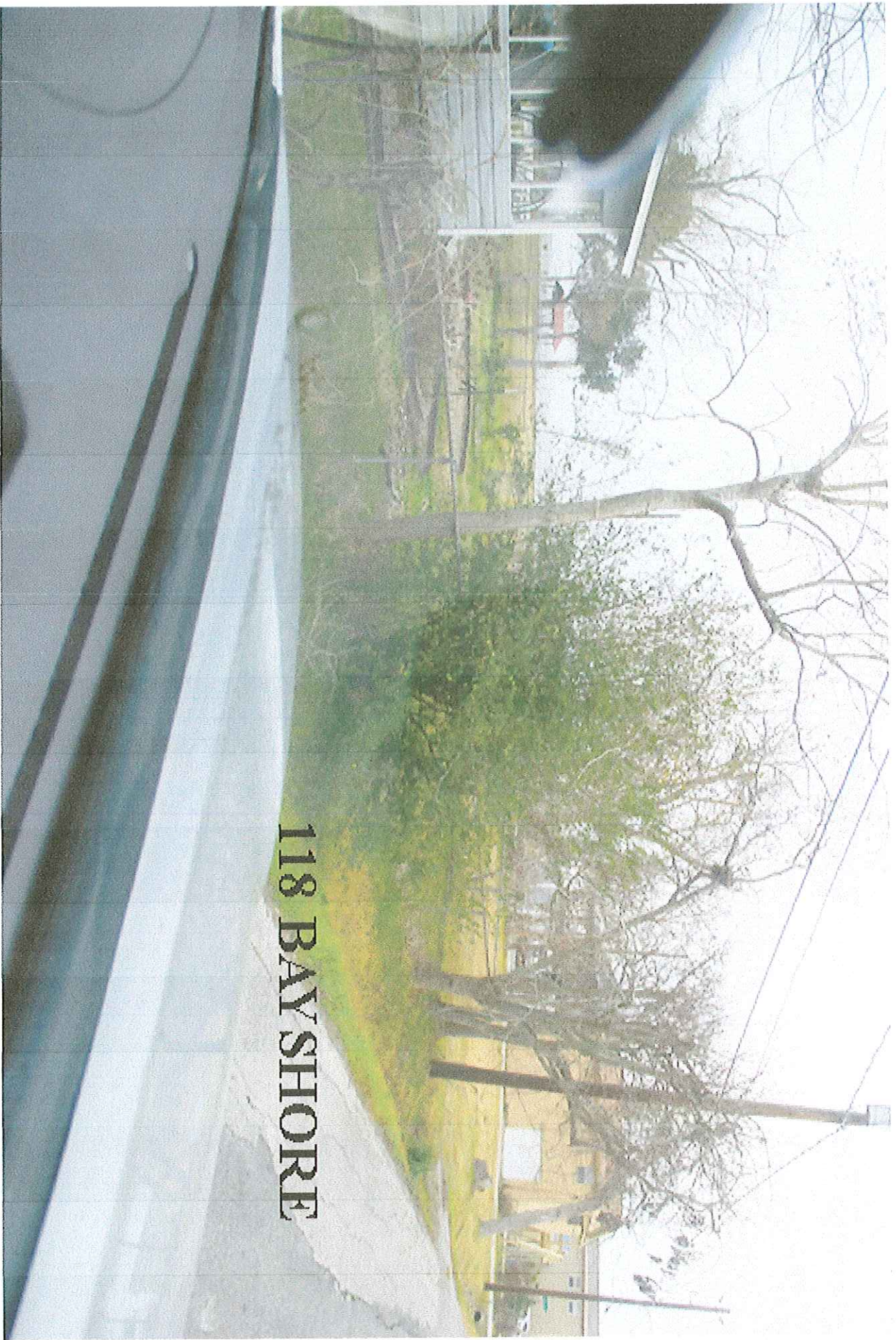




BONNER

CORNER OF BONNER & BAYSIDE



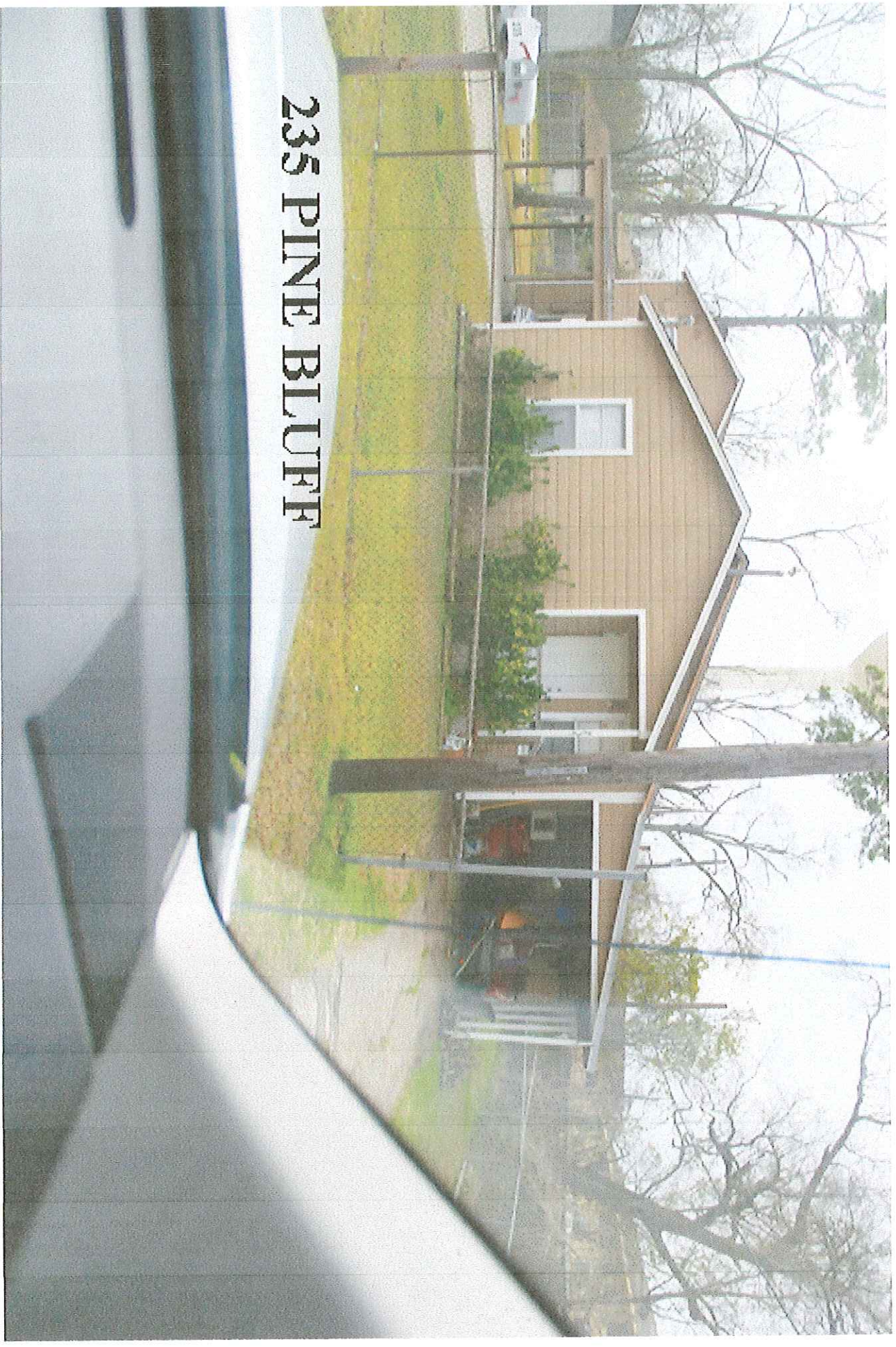


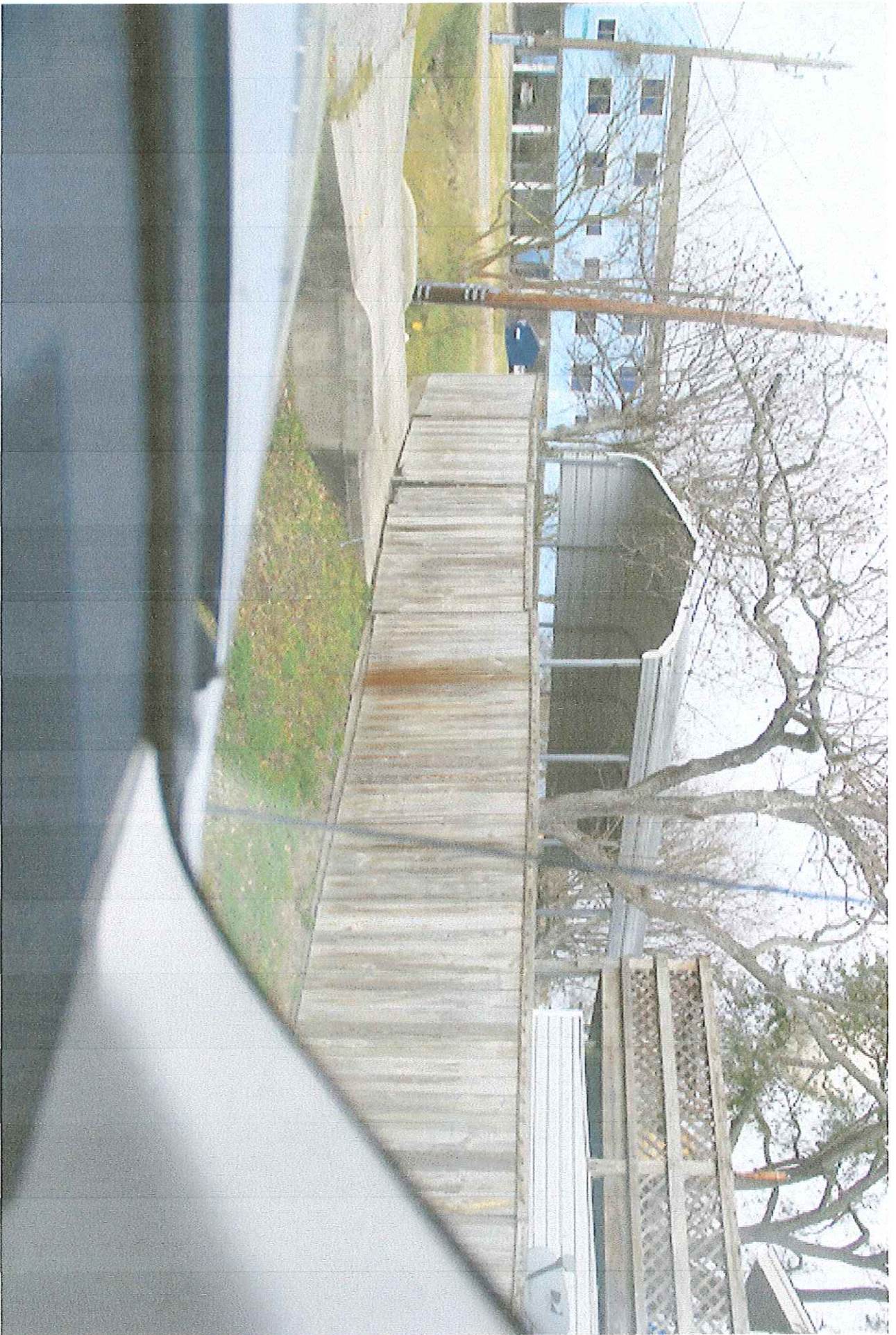
118 BAY SHORE

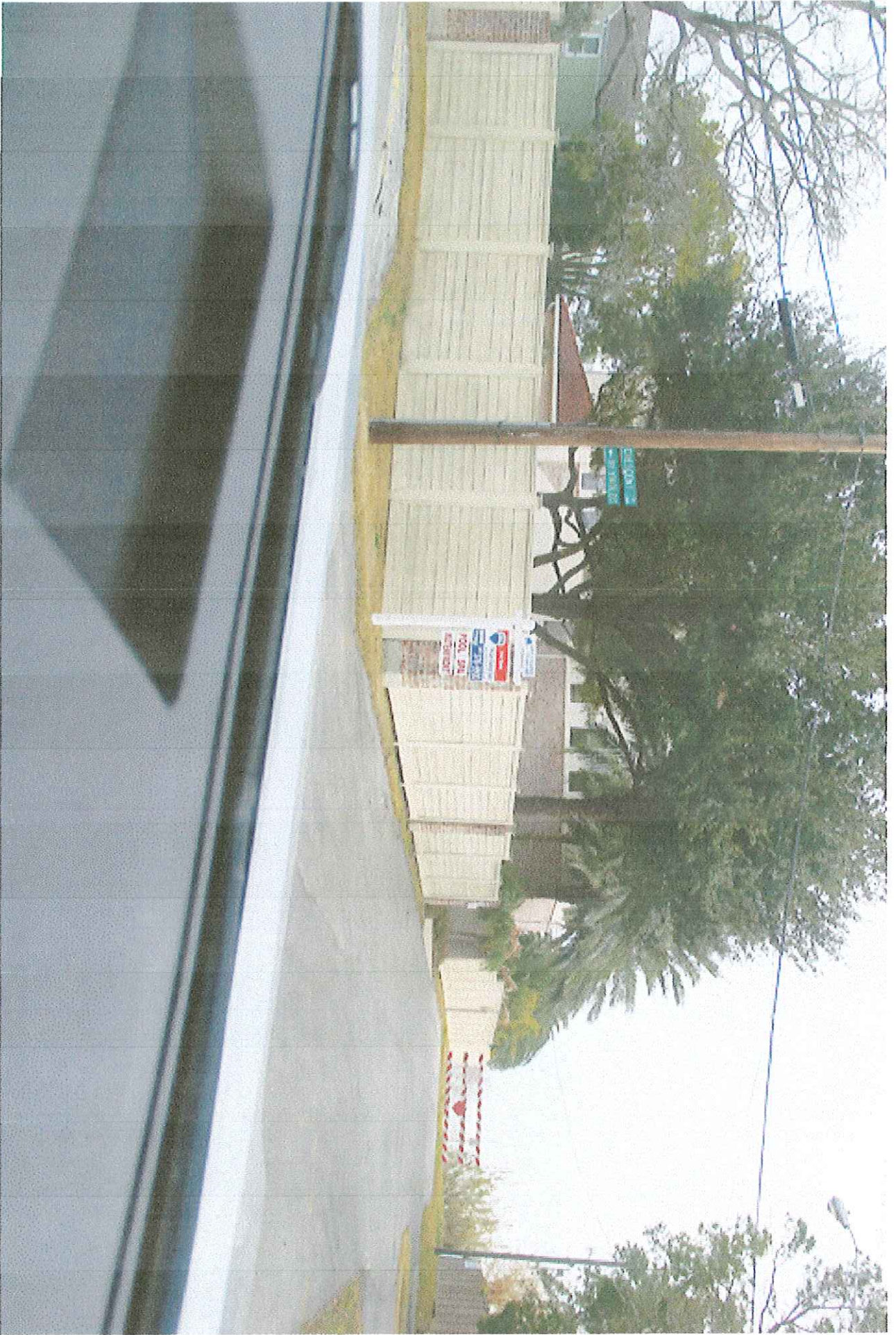


103 PINE BLUFF

235 PINE BLUFF













LEGEND

ITEMS THAT MAY APPEAR IN
DRAWING BELOW

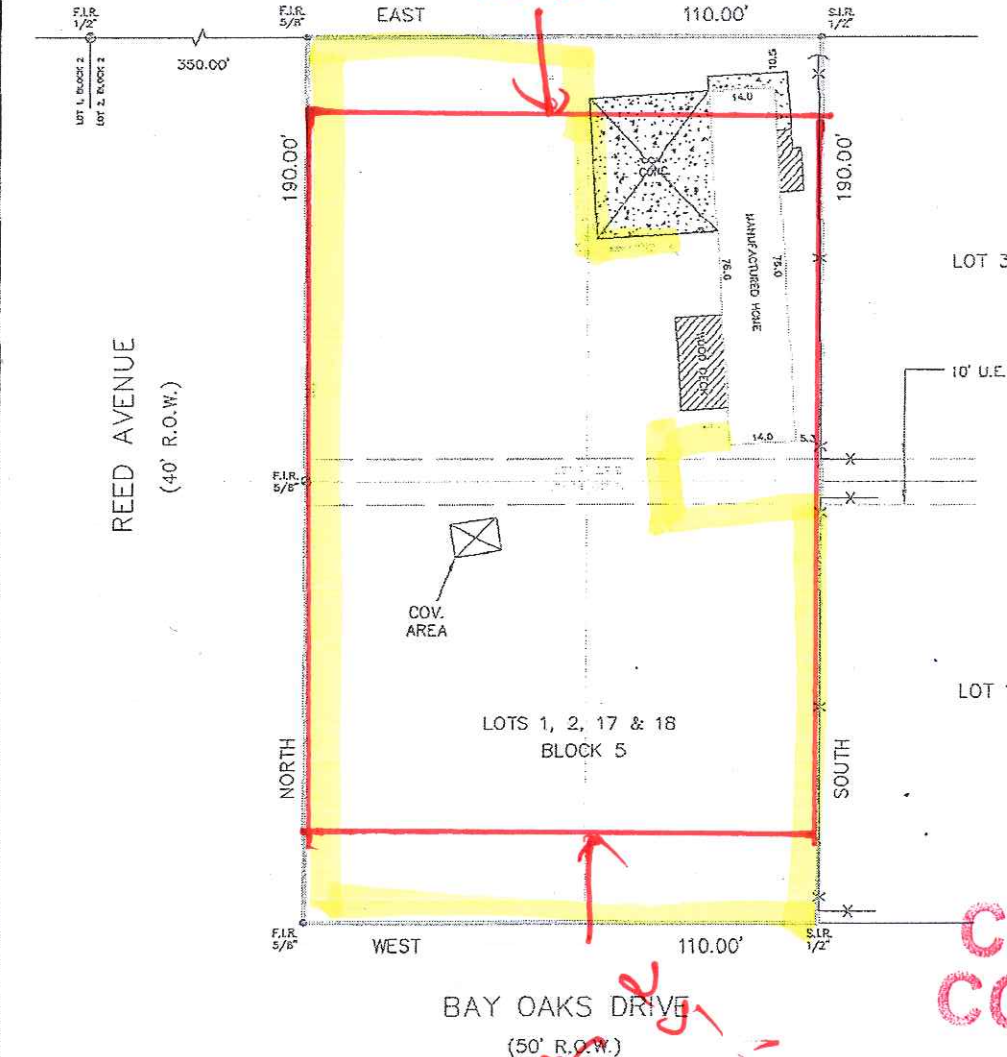
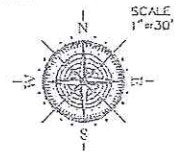
F.L.R. = FOUND RIGHT ROW
F.L.P. = FOUND RIGHT P.E.
S.L.R. = SET RIGHT ROW
M.P. = METAL POST
C.F.R. = CROWN PILE NUMBER
P.O.C. = POINT OF CORNERING
P.A.B. = POINT OF BEGINNING
B.L. = BUILDING LINE
F.O. = FOUND

P.A.E. = PERMANENT ACCESS EASEMENT
P.U.E. = PUBLIC UTILITY EASEMENT
W.S.E. = WATER & SEWER EASEMENT
E.E. = ELECTRIC EASEMENT
P.C. = POINT OF CURVATURE
P.T. = POINT OF TANGENCY
P.R.C. = POINT OF REVERSE CURVATURE
P.C.C. = POINT OF COMPOUND CURVATURE
P.P. = PAVED PILE
B.P. = BOUNDARY

CONTROL MONUMENT

— = PROPERTY LINE
— = EASEMENT LINE
— = BUILDING SETBACK LINE
— = BUILDING WALL

— = WOODEN FENCE
— = CHAIN LINK FENCE
— = METAL FENCE
— = WIRE FENCE
— = VINYL FENCE



Recorded & Accepted by:

Date:

Date:

NOTES:

— BEARING BASIS: PLAT V-86/P-18, H.C.N.R.
— SUBJECT TO ANY AND ALL RECORDED AND UNRECORDED EASEMENTS
— SURVEYOR HAS NOT INDEPENDENTLY ABSTRACTED PROPERTY
— UNDERGROUND UTILITY INSTALLATIONS, UNDERGROUND IMPROVEMENTS, FOUNDATIONS AND/OR OTHER UNDERGROUND STRUCTURES WERE NOT LOCATED BY THIS SURVEY
— THIS SURVEY IS CERTIFIED FOR THIS TRANSACTION ONLY; IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS
— THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE REPORT/COMMITMENT, ADDITIONAL BUILDING SETBACK LINES, EASEMENTS OR RIGHTS-OF-WAY MAY APPLY
— PROPERTY APPEARS TO LIE IN F.L.A. DESIGNATED FLOOD ZONE AE, PER MAP NO. 48201C 1085L 6-12-07
— FLOOD INFORMATION IS BASED ON GRAPHIC PLOTTING ONLY, DUE TO INHERENT INACCURACIES ON FEMA MAPS. WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION, CONTACT YOUR LOCAL FLOOD PLAIN MANAGER FOR MORE INFORMATION REGARDING THE SUBJECT PROPERTY
— SUBJECT TO ZONING AND BUILDING ORDINANCES ENFORCED BY LOCAL MUNICIPALITIES

LEGAL DESCRIPTION

LOTS 1, 2, 17 AND 18, IN BLOCK 5, IN BAY OAKS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 10, PAGE 9, OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

CLIENT

BECKY DORSETT

ADDRESS

IF THE APPROVED PLANS ARE MODIFIED, A NEW SUBMITTAL TO THE CITY IS REQUIRED PRIOR TO THE CHANGE OCCURRING.



I DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON (OR ON ATTACHED SHEET), AND THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN AND WAS DONE BY ME OR UNDER MY SUPERVISION AND CONFORMS TO OR EXCEEDS THE CURRENT STANDARDS AS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.

JOB # 1309181

DATE 9-20-13

GF# N/A

PRO-SURV

P.O. BOX 1366, FRIENDSWOOD, TX 77549
PHONE-281-998-1113 FAX-281-998-0112
EMAIL: orders@prosurv.net

ONLY SURVEY MAPS WITH THE SURVEYOR'S ORIGINAL SIGNATURE ARE GENUINE TRUE AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND ORIGINAL

©2013 PRO-SURV - ALL RIGHTS RESERVED

AREA MAP

